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7 UNITED STATES DISTRICT COURT  
8 EASTERN DISTRICT OF CALIFORNIA  
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10 ISAAC MARTINEZ, ) 1:11-cv-00215-OWW-SKO-HC  
11 )  
12 Petitioner, ) ORDER TRANSFERRING CASE TO THE  
13 v. ) UNITED STATES DISTRICT COURT FOR  
14 JAMES D. HARTLEY, ) THE CENTRAL DISTRICT OF  
15 Respondent. ) CALIFORNIA (DOC. 9)  
16 )  
17 )

18 Petitioner is a state prisoner proceeding pro se and in  
19 forma pauperis with a petition for writ of habeas corpus pursuant  
20 to 28 U.S.C. § 2254. The matter has been referred to the  
21 Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1) and Local  
22 Rules 302 and 304. Pending before the Court is the first amended  
23 petition (FAP, doc. 9), which was filed on April 25, 2011.

24 In the initial petition, Petitioner, an inmate of Avenal  
25 State Prison, challenged the denial of his parole. However, the  
26 claim or claims that presently remain in Petitioner's first  
27 amended petition (FAP), filed on April 25, 2011, concern  
28 Petitioner's conviction, which was suffered in the Los Angeles

1 Superior Court.

2 Title 28 U.S.C. § 2241(d) provides as follows which respect  
3 to venue, jurisdiction and transfer in a habeas proceeding  
4 pursuant to 28 U.S.C. § 2254:

5 Where an application for a writ of habeas corpus  
6 is made by a person in custody under the judgment  
7 and sentence of a State court of a State which  
8 contains two or more Federal judicial districts,  
9 the application may be filed in the district court  
10 for the district wherein such person is in custody  
11 or in the district court for the district  
12 within which the State court was held which  
convicted and sentenced him and each of such  
district courts shall have concurrent jurisdiction  
to entertain the application. The district court  
for the district wherein such application is filed  
in the exercise of its discretion and in furtherance  
of justice may transfer the application to the  
other district court for hearing and determination.

13 Although venue is generally proper in either the district of the  
14 prisoner's confinement or the convicting court's location,  
15 petitions challenging a conviction preferably are heard in the  
16 district of conviction, Laue v. Nelson, 279 F.Supp. 265, 266  
17 (N.D.Cal. 1968); petitions challenging execution of sentence are  
18 preferably heard in the district where the inmate is confined,  
19 Dunne v. Henman, 875 F.2d 244, 249 (9th Cir. 1989). A court  
20 should further consider traditional considerations of venue, such  
21 as the convenience of parties and witnesses and the interests of  
22 justice. Braden v. 30<sup>th</sup> Judicial Circuit Court of Kentucky, 410  
23 U.S. 484, 495 (1973).

24 Title 28 U.S.C. § 1406(a) provides that a district court of  
25 a district in which is filed a case laying venue in the wrong  
26 division or district shall dismiss, or if it be in the interest  
27 of justice, transfer such case to any district or division in  
28 which it could have been brought.

1 In view of the nature of the claim or claims remaining in  
2 the FAP, it is concluded that the interests of justice require  
3 that the petition be transferred to the district of conviction.

4 Accordingly, it is ORDERED that the petition be transferred  
5 to the United States District Court for the Central District of  
6 California.

7  
8 IT IS SO ORDERED.

9 **Dated: September 25, 2011**

**/s/ Sheila K. Oberto**  
UNITED STATES MAGISTRATE JUDGE